

The Tenzor of the

OATH

To be taken by

PERSONS

In PUBLIC TRUST,

With The

Earl of Argile's

Explanation, & his INDICTMENT,

on *Monday the 12th of Decemb.* for

HIGH-TREASON:

Taken from the Original Records:

Reprinted, MDCLXXI.

*The Tenor of the Oath to be taken by persons
in publick Trust*

TA; B: solemnly swear in presence of the Eternal God, whom I invoke as Judge and Witness of the sincere intention of this my Oath: That I own, and sincerely profess the true Protestant Religion contained in the Confession of Faith, Recorded in the first Parliament of King James the Sixth, and that I believe the same to be founded on, and agreeable to the written Word of God. And I promise and swear, that I shall adhere therunto, during all the days of my Life-time, and shall endeavour to educate my Children therein; and shall never consent to any Change or Alteration contrary thereto, and inconsistent with the said Protestant Religion, and Confession of Faith, and for Testification of my Obedience to my most Gracious Sovereign, Charles the Second. I do affirm and swear, by this my solemn Oath, That the Kings Majesties the only Supreme Governour of this Realm, over all Persons, and in all Causes, as well Ecclesiastical as Civil; And that no foreign Prince, Person, Pope, Prelate, State, or Potentate, hath, or ought to have, any Jurisdiction, Power, Superiority, Preheminency, or Authority, Ecclesiastical or Civil, within this Realm: And therefore I do utterly renounce and forsake all foreign Jurisdications, Powers, Superiorities, and Authorities, and do promise, that from henceforth I shall bear Faith and true Allegiance to the Kings Majestie, his Heirs and lawful Successors; and to my power shall assist and defend all Rights, Jurisdications, Prerogatives, Priviledges, Preheminences,

ces, and Authorities, belonging to the Kings Majesty, his Heirs, and lawful Successors. And I further affirm, and swear by this my solemn Oath, That I judge it unlawful for Subjects upon pretence of Reformation, or any other pretence whatsoever, to enter in to Covenants or Leagues, or to Convoke, Convene, or Assemble in any Counsels, Conventions, or Assemblies to Treat, Consult, or Determine in any matter of State, Civil or Ecclesiastick, without His Majesties special Command, or express License had thereto, or to take up Arms against the King, or those Commissioned by him; and that I shall never so rise in Arms, or enter into such Covenants or Assemblies, and that there lies no Obligation on me from the National Covenant or the solemn League and Covenant (commonly so called) or any other manner of way whatsoever, to endeavour any Change or Alteration in the Government either in Church or State, as it is now Established by the Laws of this Kingdom: And I promise and swear, that I shall with my utmost power Defend, Assist, and Maintain his Majesties Jurisdiction foresaid, against all deadly Conspiracies and Contrivances whatsoever and I shall never decline his Majesties Power and Jurisdiction, as I shall answer to God. And finally, I affirm and swear, That this my solemn Oath is given in the plain genuine sense and meaning of the words, without any Equivocation, mental Reservation, or any manner of Evasion whatsoever; and that I shall not accept or use any Dispensation from any Creature whatsoever. So help me God.

(4)

Here follows his Explanation of the TEST.

I have considered the Test, and am very desirous to give Obedience so far as I can; I am confident the parliament never intended to impose contradictory Oaths, and therefore I think no man can explain it but for himself; and reconcile it as it is genuine and agree in its own senses; and I take it in so far as it is consistent with itself and the protestant Religion & I do declare I mean not to bind up my self in my Station, and in a Lawfull way to with and endeavour any alteration I think to the advanage of Church or State and repugnant to the protestant Religion, and my loyalty: and this I understand as a part of my Oath.

the day of Compirance, 12th of December 1681

A True Copy of the Indictment which is preferred against Archibald Earl of Argile, for High-Treason, who is to be Tryed on Monday the 12th. day of this instant December 1681 as it was taken from the Original Records,

A R C H I B A L D Earl of Argile, you are indicted and Accused, That albeit by the Common Law of all well-governed Nations, and by the municipal Laws and Acts of Parliament of this Kingdome, and particularly by the 21 cap Stat. I. Rel. I and by the 43 Act of parl. 2 Jac 1 & by the 83 Act of Parl. 5 Jac 6 and the 134 parl. 14 Jac 6 and by the 204 Act of parl. 8 Jac 6 all Leising makers and sellers of them, are punishable with tinsel of Life and Goods; Likewise by the 7 Act parl. 7 Jac 6 it is Statute, That no man interpret the Kings Statutes otherwise than the Statutes bear, and to the intent and effect that they were made for, and as the makers of them understood and who so does to the contrary, to be punished at the Kings Will. And by the 1 Act par. 1 Jac 6 it is Statute, That none of his Majesties Subjects presume or take upon hand publickly to declare

clare, or privately to speak, or write any purpose of reproach
against his Majesties Person, Government or State, or to
deprave his laws and Acts of Parliament, or misconstrue
his Proceeding, whereby any miliking might be moved
betwixt His Highness, his Nobility, and his loving subjects
in time coming, under pain of Death, certifying them that
do on the contrary, they shall be reputed as seditious and
wicked Instruments. Enemies to his Highness, and the Com-
monweal of this Realm, and the said pain of Death shall be
executed against them with all viour, to the Example of
others. And by the 2d. Act Sess 2 Parl. 1 Car. 2 it is sta-
tute. That whoever shall by writing, Libelling or Remon-
strating, expresse, publish or declare any Words or sentences
to stir up the People to the dislike of His Majesties Royal
Prerogative and Supremacy in Causes Ecclesiastical, of the
Government of the Church by Archbishops and Bishops, as
it is now established by law, under the pain of being unca-
pable to exercise any Office, Civil, Ecclesiastical or Military
within this Kingdom, in any time coming; Likewise by the
Fundamental Laws of this Nation, and by the 138 Act Parl.
8 Jac 6 it is declared, That none of His Majesties Subjects
presume or take upon hand to impugne the Dignity and Au-
thority of the three States of Parliament, or to procure in-
novation or diminution of their power and authority, under
the pain of Treason; and it is much more Treason in any of
his Majesties Subjects to presume to alter Laws already made
or to make new Laws, or add any part to any Law by their
own authority, that being to assume the Legislative power
to themselves, which is his Majesties best & most incommuni-
cable Prerogative; Yet true it is, that albeit, His Sacred Maje-
sty did bestow upon you the said arch Earl of Argile These
Vast lands, Jurisdictions, and Superiorities, justly forfeited
to His Majesty by the Crimes of your deceased Father pre-
ferring your Family to Those, who had served His Majesty
in the late Rebellion against us But also pardoned and Re-
mitted

mitted to them the Crimes of *Leising*, *Making* and *Misconstructing* of His Majesty and the Parliaments proceedings against the very *Laws* above-written, whereof you were found Guilty, and condemned to die therefore, by the High Court of Parliament *anno* 1662 and raised you to the Title and Dignity of an Earl, and of being a *Member* in all his Majesties Jurisdictions. Notwithstanding of all these and many other favours, to you the said *arch* Earl of *argile*, being put to the Lords of his Majesties Privy Council to take the Test, appointed by the act of the last parliament, to be taken by all persons in publick Trust; instead of taking the said Test and swearing the same in the plain sense and meaning of the words without Equivocation, Mental Reservation, or Evasions, whatomever, you Declare against, and Defame the said Act, and having to the end you might corrupt others by your pernicious Sense, drawing the same in a Libel, of which bel, you dispersed,, and gave abroad Copies, whereby evil example was given to the Kings proceedings, at a time especially when his Majesties Subjects were expecting that submission should be given to the said Test, and being desired the next day to take the same as one of the Commissioners of his Majesties Treasury, then did give into the Lords of His Majesties Privy Council, and owned twice in plain Judgment before them, the said Defamatory Libel against the said Test and Act of Parliament, declaring that he had considered the said Test, and was desirous to give obedience as far as ye could, whereby ye clearly insinuate, that ye were not able to give full obedience.

In the Second Article of which Libel ye declare that ye are confident that the Parliament never intended to impose contradictory Oaths whereby to abuse the people with the belief that the Parliament had been so impious as really and actually to impose contradictory Oaths, and so ridiculous as to have made an Act of Parliament (which should be most deliberate of all Humane Actions) quite contrary to their

own intentions, After which ye subsumed, contrary to the nature of all Oaths, and to the Acts above-cited, that every man must explain it for himself, and take it in his own sense then the Oath is imposed to no purpose, for the Legislator cannot be sure that the Oath imposed by him will bind the Takers according to the design and intent for which he appointed it, and the Legislative Power is taken from the imposer, and settled upon the Taker of the Oath, and so he is allowed to be the Legislator which is not only an open and violent depriving of His Majesties Acts of Parliament, but is likewise a settling of the Legislative Power upon private Subjects who are to take such Oaths. In the 3d Article of the said Paper, you declared, That ye take the Test in as far only as it is consistent with it self, and the *Protestant Religion*, by which you maliciously intimate to the people that the said Oath is inconsistent with it self & the *Protestant Religion*, which is not only a down-right depraving of the said Act of Parliament, but is likewise a misconstruing of His Majesty and the Parliaments Proceedings, and a misrepresenting to the people in the highest degree, and in the tenderest points wherein they be concerned, and implying that the King and Parliament have done things inconsistent with the *Protestant Religion*, for securing of which that Test was particularly invented, In the 4th Article you expressly declared, That you mean not by taking the said Test to bind up your self from wishing or endeavouring any alteration that ye shall think for the advantage of the Church or State? whereby, although it was designed by the said Act of Parliament and Oath, that no man should endeavour any alteration of the Government, either in Church or State, as it is now established; and the duty of all good Subjects in humble manner to obey the present Government; yet you not only declared your self, but by your example invited others to think themselves loosed from that obligation, and that it is free for them to make any alteration in either as they think fit, concluding
your

your whole paper with these words, [and his I understand
as a part of my oath] which is not only an invasion upon
the Legislative power, as if it were lawfull for you
make to yourself any act of parliament, since he that
make any part of an act, can make the whole power and
authority in both being the same; Of the which Crimes above
mentioned, you the said archibald Earl of argyle are not
part and part, which being found by assize, you ought to
be punished with pains of Death, forfeiture of Life, Land, and
Escheat of Goods, to the terrour of others to do and commit
the like thereafter.

Here follows a List of the assizers, of Jurors.

Marques of Montrose.	Laird Desmore.
Earl of Linlithgow.	Laird Hail-gard.
Earl of Vintone.	Laird Hilltown.
Earl of Strathmore.	Laird Ormestown.
Earl of Roxbrough.	Laird Touch.
Earl of Haddingone.	Maister of Samirinack.
Earl of Drumfrice.	Maister of Ross.
Earl of Arlie.	Maister of Burly.
Earl of Marr.	Laird Gossford.
Earl of Hume.	Sir Robert Dalziel of Glenack.
Earl of Perth.	Laird Ballymain.
Earl of Dumfermling.	Laird park Gordon.
Earl of Dalrymple.	Sir Will. Nicolson of that ilk.
Earl of Sutherland.	Laird Lamington.
Earl of Tredcl.	Laird Claverhouse.
Earl of Middleton.	Laird Longformegons.
Lord Ross.	Mr Francis Macgomerrie, Brother
Lord Elibank.	to the Earl of Elington.
Lord Duke.	Maister of Samirinack.
Lord Livingstone.	Sir Andrew Ramsay of Abbot.
Lord Sinkler.	ball.
Lord Lindours.	Laird Hawing.
Lord Rollo.	Laird Greddenkar.
Lord Bruntilard.	Laird Londine.
Laird purie.	Sir William paterfson.

FINIS.